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**FILED**  
Clerk  
District Court

**JUN 13 2008**

For The Northern Mariana Islands  
By \_\_\_\_\_  
(Deputy Clerk)

8 UNITED STATES DISTRICT COURT  
9 NORTHERN MARIANA ISLANDS

10 UNITED STATES OF AMERICA,  
11 Plaintiff,

12 v.

13 GREGGORY SABLAN KALEN;  
14 LAWRENCE KALEN; and  
MANUEL ALDAN SABLAN

15 Defendants.  
16 \_\_\_\_\_

Criminal Case No. 08-00014-001

PLEA AGREEMENT  
as to defendant  
GREGGORY SABLAN KALEN

17 Pursuant to Rule 11(c)(1)(B), the United States and GREGGORY SABLAN KALEN  
18 enter into the following plea agreement (the "Agreement"):

19 1. On the understandings specified below, the Office of the United States  
20 Attorney for the Districts of Guam and the Northern Mariana Islands ("this Office") will accept  
21 a guilty plea from GREGGORY SABLAN KALEN (the "defendant") to Count Two of the  
22 Indictment. Count Two charges the defendant with Distribution and Possession With Intent to  
23 Distribute a Controlled Substance, in violation of Title 21, United States Code, Sections  
24 841(a)(1) and 841(b)(1)(A), in connection with the defendant's possession with the intent to  
25 distribute d-methamphetamine hydrochloride in the form commonly known as "ice", beginning  
on or about December 1, 2007. Count Two carries a maximum sentence of 20 years'

1 imprisonment, a maximum fine of \$1,000,000, a \$100 special assessment, and a minimum term  
2 of supervised release of three years.

3           2.     It is understood that the defendant: (a) shall truthfully and completely  
4 disclose all information with respect to the activities of himself and others concerning all  
5 matters about which this Office inquires of him, which information can be used for any  
6 purpose; (b) shall cooperate fully with this Office, the United States Drug Enforcement  
7 Administration and the DEA/CNMI Task Force, and any other law enforcement agency  
8 designated by this Office; (c) shall attend all meetings at which this Office requests his  
9 presence; (d) shall provide to this Office, upon request, any document, record, or other tangible  
10 evidence relating to matters about which this Office or any designated law enforcement agency  
11 inquires of him; (e) shall truthfully testify before the grand jury and at any trial and other court  
12 proceeding with respect to any matters about which this Office may request his testimony; (f)  
13 shall bring to this Office's attention all crimes which he has committed, and all administrative,  
14 civil, or criminal proceedings, investigations, or prosecutions in which he has been or is a  
15 subject, target, party, or witness; (g) shall comply with all orders of the Court, including those  
16 related to any conditions of release; and (h) shall commit no further crimes whatsoever.  
17 Moreover, any assistance the defendant may provide to federal criminal investigators shall be  
18 pursuant to the specific instructions and control of this Office and designated investigators.

19           3.     It is understood that this Office cannot, and does not, agree not to  
20 prosecute the defendant for criminal tax violations. However, if the defendant fully complies  
21 with the understandings specified in this Agreement, no testimony or other information given  
22 by him (or any other information directly or indirectly derived therefrom) will be used against  
23 him in any criminal tax prosecution. Moreover, if the defendant fully complies with the  
24 understandings specified in this Agreement, he will not be further prosecuted criminally by this  
25 Office for any crimes, except for criminal tax violations, related to his participation in the  
possession with intent to distribute and distribution of d-methamphetamine hydrochloride on or  
about December 1, 2007 in the District of the Northern Mariana Islands, to the extent that he  
has disclosed such participation to this Office as of the date of this Agreement, not involving

1 crimes of violence. Provided the defendant has complied with the terms of this Agreement, the  
2 government will move to dismiss the remaining counts in the Indictment upon sentencing. This  
3 Agreement does not provide any protection against prosecution for any crimes except as set  
4 forth herein.

5 4. Except as otherwise provided in this Agreement, it is understood that this  
6 Agreement does not bind any federal, state, or local prosecuting authority other than this Office.  
7 This Office will, however, bring the cooperation of the defendant to the attention of other  
8 prosecuting offices, if requested by him.

9 5. In consideration of the foregoing and pursuant to Sentencing Guidelines §  
10 6B1.4, the parties hereby stipulate to the following facts and application of the Sentencing  
11 Guidelines:

12 Facts

13 a. On or about December 1, 2007, the defendant knowingly possessed  
14 and distributed d-methamphetamine hydrochloride, in the form commonly known as "ice", a  
15 Schedule II controlled substance.

16 b. The defendant knew that said substance was prohibited.

17 c. The total quantity of d-methamphetamine hydrochloride involved  
18 was approximately one-hundred (100) net milligrams.

19 Offense Level

20 d. U.S.S.G. § 2D1.1 applies to the offense conduct in Count Two.

21 e. The relevant conduct includes the distribution and possession with  
22 intent to distribute less than 250 milligrams of d-methamphetamine hydrochloride in the form  
23 commonly known as "ice", as such, the base offense level under U.S.S.G. § 2D1.1(c)(14) is 12.

24 f. If the defendant allocutes to the crime charged in Count Two of the  
25 Indictment to the satisfaction of the Court, a two-level reduction in the offense level for  
acceptance of responsibility is warranted under U.S.S.G. § 3E1.1(a).

g. Accordingly, the applicable U.S.S.G. offense level is 10.

Criminal History Category

1 h. There is no stipulation as to Criminal History category.

2  
3 Sentencing Range

4 i. Based upon the calculations set forth above, and provided the  
5 defendant's Criminal History is Category I, the sentencing Guidelines range is 6 to 12 months.  
6 In addition, after determining the defendant's ability to pay, the Court may impose a fine  
7 pursuant to U.S.S.G. § 5E1.2. At Guidelines level 10, the applicable fine range is \$2,000 to  
8 \$20,000. The defendant has been advised and understands that the stipulated Guidelines range  
9 is merely a recommendation to the Court. The Court can reject it without permitting the  
10 defendant to withdraw his plea of guilty and can impose a sentence that is more severe than he  
11 anticipates. The defendant also understands that the Sentencing Guidelines are merely  
12 advisory, and the Court may impose any reasonable sentence up to and including the maximum  
13 penalties set by law after taking into account the factors enumerated in Title 18, United States  
14 Code, Section 3553(a).

15 6. It is understood that the sentence to be imposed upon the defendant is  
16 within the sole discretion of the Court. This Office cannot, and does not, make any promise or  
17 representation as to what sentence the defendant will receive. However, this Office will inform  
18 the Probation Department and the Court of (a) this Agreement; (b) the nature and extent of the  
19 defendant's activities with respect to this case and all other activities of the defendant which this  
20 Office deems relevant to sentencing; and (c) the nature and extent of the defendant's  
21 cooperation with this Office. In so doing, this Office may use any information it deems  
22 relevant, including information provided by the defendant both prior to and subsequent to the  
23 signing of this Agreement. In addition, if this Office determines that the defendant has  
24 provided substantial assistance in an investigation or prosecution, and if he has fully complied  
25 with the understandings specified in this Agreement, this Office will file a motion, pursuant to  
Section 5K1.1 of the Sentencing Guidelines, requesting the Court to sentence the defendant in  
light of the factors set forth in Section 5K1.1(a)(1)-(5). It is understood that, even if such a  
motion is filed, the sentence to be imposed on the defendant remains within the sole discretion

1 of the Court. The defendant hereby consents to such adjournments of his sentence as may be  
2 requested by this Office.

3 7. It is understood that, should this Office determine either that the defendant  
4 has not provided substantial assistance in an investigation or prosecution, or that the defendant  
5 has violated any provision of this Agreement, such a determination will release this Office from  
6 any obligation to file a motion pursuant to Section 5K1.1 of the Sentencing Guidelines, but will  
7 not entitle him to withdraw his guilty plea once it has been entered.

8 8. It is understood that, should this Office determine, subsequent to the filing  
9 of a motion pursuant to Section 5K1.1 of the Sentencing Guidelines, that the defendant has  
10 violated any provision of this Agreement, this Office shall have the right to withdraw such  
11 motion.

12 9. It is understood that, should the defendant commit any further crimes or  
13 should it be determined that he has given false, incomplete, or misleading testimony or  
14 information, or should he otherwise violate any provision of this Agreement, the defendant shall  
15 thereafter be subject to prosecution for any federal criminal violation of which this Office has  
16 knowledge, including perjury and obstruction of justice. Any such prosecution that is not time-  
17 barred by the applicable statute of limitations on the date of the signing of this Agreement may  
18 be commenced against the defendant, notwithstanding the expiration of the statute of limitations  
19 between the signing of this Agreement and the commencement of such prosecution. It is the  
20 intent of this Agreement to waive all defenses based on the statute of limitations with respect to  
21 any prosecution that is not time-barred on the date that this Agreement is signed.

22 10. Defendant is advised and understands that to establish a violation of Title  
23 21, United States Code, Sections 841(a)(1) and 841(b)(1)(A), distribution and possession with  
24 the intent to distribute a controlled substance, as charged in Count Two of the Indictment, the  
25 government must prove each of the following elements beyond a reasonable doubt:

a. First, the defendant knowingly delivered d-methamphetamine  
hydrochloride, in a form commonly known as "ice", to another person; and

1                   b.     Second, the defendant knew it was ice, or some other prohibited  
2 drug.

3                   11.    The defendant acknowledges that he has been advised of his rights as set  
4 forth below prior to entering into this Agreement. Specifically, defendant has been fully  
5 advised of, has had sufficient opportunity to reflect upon, and understands the following:

6                   a.     the nature and elements of the charges and the maximum possible  
7 penalty provided by law;

8                   b.     his right to be represented by an attorney;

9                   c.     his right to plead not guilty and the right to be tried by a jury and at  
10 that trial, the right to be represented by counsel, the right to confront and cross-examine  
11 witnesses against him, and the right not to be compelled to incriminate himself, that is, the right  
12 not to testify;

13                   d.     that if he pleads guilty, there will not be a further trial of any kind  
14 on the charges to which such plea is entered so that by entering into this Agreement, he waives,  
15 that is, gives up, the right to a trial; and

16                   e.     that, upon entry of a plea of guilty, or thereafter, the Court may ask  
17 him questions about the offenses to which he has pled, under oath, and that if he answers these  
18 questions under oath, on the record, his answers may later be used against him in a prosecution  
19 for perjury or false statement if an answer is untrue.

20                   12.    Being fully advised of his rights as set forth in the preceding paragraph, the  
21 defendant represents that:

22                   a.     the agreement is voluntary and not a result of any force, threats or  
23 promises apart from this Agreement;

24                   b.     he reads, speaks, writes and understands English and has read and  
25 understood this Agreement or has had a qualified interpreter read this Agreement to him in a  
language that he understands, and that he fully understood such translation; and

                  c.     he is satisfied with the representation provided to him by his  
counsel.

1           13. It is understood that in the event that it is determined that the defendant  
2 had committed any further crimes, given false, incomplete, or misleading testimony or  
3 information, or otherwise violated any provision of this Agreement, (a) all statements made by  
4 the defendant to this Office or other designated law enforcement agents, and any testimony  
5 given by the defendant before a grand jury or other tribunal, whether prior to or subsequent to  
6 the signing of this Agreement, and any leads from such statements or testimony shall be  
7 admissible in evidence in any criminal proceeding brought against the defendant; and (b) the  
8 defendant shall assert no claim under the United States Constitution, any statute, Rule 11(e)(6)  
9 of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any  
10 other federal rule that such statements or any leads therefrom should be suppressed. It is the  
intent of this Agreement to waive all rights in the foregoing respects.

11           14. In exchange for the government's concessions in this Plea Agreement, the  
12 defendant waives any right to appeal this conviction or to collaterally attack this conviction.  
13 Defendant reserves the right to appeal the sentence imposed in this case. However, it is further  
14 agreed: (a) that the defendant will neither appeal, nor otherwise litigate under Title 28, United  
15 States Code, Section 2255 and/or Section 2241, the conviction and any sentence within or  
16 below the stipulated Sentencing Guideline range; and (b) that the government will not appeal  
17 any sentence within or above the stipulated Sentencing Guideline range. This provision is  
18 binding on the parties even if the Court employs a Guidelines analysis different from that  
19 stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that  
20 is not foreclosed by this provision will be limited to that portion of the sentencing calculation  
that is inconsistent with (or not addressed by) the above stipulation.

21           15. The defendant agrees to forfeit, abandon, give up, and give away to the  
22 United States prior to the date of the sentencing hearing, any right, title and interest the  
23 defendant may have in property subject to criminal forfeiture pursuant to 21 U.S.C. § 853, and  
24 18 U.S.C. § 924(d)(1). It is further agreed that any other items of property seized in the search  
25 of the defendant, his vehicle(s) and the defendant's home(s), not already returned to the

1 defendant, are abandoned by the defendant and shall accordingly be used, transferred, or  
 2 disposed of at the discretion of the seizing agency.


3 16. By this Agreement the defendant not only agrees to forfeit all interests in  
 4 the property referred to in the above paragraph, but agrees to take whatever steps are necessary  
 5 to convey any and all of his right, title and interest in such property to the United States. These  
 6 steps include but are not limited to the surrender of title, the signing of a quit claim deed, the  
 7 signing of a consent decree, the signing of abandonment papers, the signing of a stipulation of  
 8 facts regarding the transfer and basis for the forfeiture, and the signing of any other documents  
 9 necessary to effectuate such transfers. The defendant further agrees to fully assist the  
 10 government in the recovery and return to the United States of any assets or portions thereof as  
 11 described above wherever located.

12 17. This Agreement supersedes any prior understandings, promises, or  
 13 conditions between this Office and the defendant. No additional understandings, promises, or  
 14 conditions have been entered into other than those set forth in this Agreement, and none will be  
 15 entered into unless in writing and signed by all parties.

16 DATED: 6-13-08

  
 GREGORY SABLAN KALEN  
 Defendant

18 DATED: 6-13-08

  
 F. MATTHEW SMITH  
 Attorney for Defendant

21 LEONARDO M. RAPADAS  
 22 United States Attorney  
 District of the Northern Mariana Islands

23 DATED: 6-13-08

24 By:   
 ERIC S. O'MALLEY  
 25 Assistant U.S. Attorney